

# COMMITTEE REPORT

## MR. PRESIDENT:

The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 315, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1       Page 5, line 3, delete "contract" and insert "**contact**".
- 2       Page 16, between lines 36 and 37, begin a new paragraph and insert:
- 3       "SECTION 20. IC 35-38-5-1 IS AMENDED TO READ AS
- 4       FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Whenever:
- 5           (1) an individual is arrested but no criminal charges are filed
- 6           against the individual; ~~or~~
- 7           (2) ~~at a criminal charges charge~~ filed against an individual ~~are~~
- 8           ~~dropped because:~~ **is dismissed;**
- 9            (A) of a mistaken identity;
- 10          (B) ~~no offense was in fact committed;~~ or
- 11          (C) ~~there was an absence of probable cause;~~
- 12          **(3) an individual is arrested and charged with committing an**
- 13          **offense and is subsequently found not guilty of committing the**
- 14          **offense; or**
- 15          **(4) an individual believes that the record of an arrest or**
- 16          **conviction erroneously identifies the individual as the person**
- 17          **arrested or convicted because the person was the victim of**
- 18          **identity deception (IC 35-43-5-3.5);**
- 19       the individual may petition the court for expungement of the records
- 20       related to the arrest **or conviction.**

(b) A petition for expungement of records must be verified and filed in the court in which the charges were filed, or if no criminal charges were filed, in a court with criminal jurisdiction in the county where the arrest occurred. The petition must set forth:

- (1) the date of the arrest;
- (2) the charge;
- (3) the law enforcement agency employing the arresting officer;
- (4) any other known identifying information, such as the name of the arresting officer, case number, or court cause number;
- (5) the date of the petitioner's birth; and
- (6) the petitioner's Social Security number.

(c) A copy of the petition shall be served on the law enforcement agency and the state central repository for records.

(d) Upon receipt of a petition for expungement, the law enforcement agency shall notify the court of the name and address of each agency to which any records related to the arrest were forwarded. The clerk shall immediately send a copy of the petition to each of those agencies. Any agency desiring to oppose the expungement shall file a notice of opposition with the court setting forth reasons for resisting the expungement along with any sworn statements from individuals who represent the agency that explain the reasons for resisting the expungement within thirty (30) days after the petition is filed. A copy of the notice of opposition and copies of any sworn statements shall be served on the petitioner in accordance with the Rules of Trial Procedure. The court shall:

- (1) summarily grant the petition;
- (2) set the matter for hearing; or
- (3) summarily deny the petition, if the court determines that:
  - (A) the petition is insufficient; or
  - (B) based on information contained in sworn statements submitted by individuals who represent an agency, the petitioner is not entitled to an expungement of records.

(e) If a notice of opposition is filed and the court does not summarily grant or summarily deny the petition, the court shall set the matter for a hearing.

(f) After a hearing is held under this section, the petition shall be granted unless the court finds:

- (1) the conditions in subsection (a) have not been met;

- 1           (2) the individual has a record of arrests ~~other than minor traffic~~  
2           ~~offenses;~~ **that creates an inference of repetitive conduct;** or  
3           (3) additional criminal charges are pending against the  
4           individual."  
5       Renumber all SECTIONS consecutively.  
      (Reference is to SB 315 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

---

**Long**

**Chairperson**